

AMENDMENTS TO THE DRAWINGS

Submitted herewith please find one (1) sheet (Figures 1-3) of replacement drawings in compliance with 37 C.F.R. § 1.84. The Examiner is respectfully requested to acknowledge receipt of these drawings.

The submitted drawings are intended to replace the drawings previously submitted.

Attachment: Annotated Sheet: One (1)

Replacement Sheets: One (1)

REMARKS

As a preliminary matter, Applicants submit herewith replacement drawings to correct the minor issue with the labeling of the drawings that were previously submitted.

Claims 1-9 are all the claims pending in the present application.

Claims 1, 4 and 7 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Feldman (US 6,393,000). Claims 2, 3, 5, 6, 8 and 9 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Feldman in view of Thiesfeld (US 6,529,971).

§102(e) Rejection (Feldman) - Claims 1, 4, and 7

Claims 1, 4, and 7 are rejected substantially based on the same reasons set forth in the previous Office Action. Applicants traverse this rejection at least based on the following reasons.

In summary, the Examiner substantially maintains the previously submitted arguments and adds a few supplemental arguments in the *Response to Arguments* section of the current Office Action.

Applicants maintain the previously submitted arguments in support of patentability. That is, Applicants maintain that Feldman does not disclose or suggest at least, “a receiver (R) adapted to receive an information stream consisting of information cells, some of which can be empty,” and “a mixer (M) adapted to detect the empty information cells and replace them with waiting cells,” as recited in claim 1 (emphasis added). *See pages 3-4 of Corrected Amendment dated August 3, 2009.*

In response, the Examiner alleges, in part:

Examiner notes that an inventor is entitled to be his or her own lexicographer. However, an inventor must define specific terms

used to describe invention with reasonable clarity, deliberateness, and precision and set out his/her uncommon definition in some manner within the patent disclosure so as to give one of ordinary skill in the art notice of the change in meaning (*Intellicall, Inc. v. Phonometrics, Inc.*, 925 F.2d 1384, 1387-88, 21 USPQ2d 1383, 1386 (Fed. Cir. 1992)). Where an explicit definition is provided in the Disclosure by the Applicant for a term, that definition will control interpretation of the term as it is used in the claim. Meaning of words used in a claim is not construed in a “lexicographic vacuum”, but in the context of the Specification and drawings. Any special meaning assigned to a term “must be sufficiently clear in the Specification” that any departure from common usage would be understood by a person of experience in the field of the invention.

In response to the Examiner’s argument above, Applicants respectfully submit that there was no special meaning assigned to the term “empty”. In fact, as further discussed below, it is the Examiner that insists on assigning a ‘special’ meaning to the word “empty”. In the context of the specification, one of ordinary skill in the art would clearly understand that empty information cells do not correspond to silence codes, as the Examiner appears to believe. Absent the assignment of a special meaning, the term ‘empty’ should give given its ordinary and common meaning.

Further, the Examiner alleges, in part:

In the Specification, an empty information cell is generally disclosed as a “filler cell”. A “filler cell”, in the pertinent art, is considered to be same as a ‘blank cell’ or a ‘silent code’ or an ‘empty cell’ containing specified sequence bits representing that the cell is a blank cell or an empty cell and can be inserted in a transmitted stream (padding) for various reasons, for example, synchronization.

Further, the term “empty information cells” in claim 1 is used by the claim to mean “empty information cell that contains nothing, e.g., no data” (see Arguments, 8/3/2009, page 5, lines 10-11) while the accepted meaning is “filler cell” (as defined above). The term is indefinite because the Specification does not clearly redefine the term. A rejection under 35 U.S.C. § 112, 2nd paragraph, is

withheld pending further clarification of the term within the Specification.

In response, Applicants submit that the Examiner has, in fact, assigned a specific meaning to the term ‘empty information cell’ that is not set forth in the specification, to support the Examiner’s position. If this attempt of the Examiner does not reflect an impermissible reading of a term’s meaning into the specification, Applicants do not know what does. That is, the Examiner alleges that one should disregard the common and ordinary meaning of the word ‘empty’ and replace that meaning with the definition of a filler cell. If the Examiner is permitted to make this type of substitution, then the Examiner essentially would be given the power to interpret the specification and claim language not only reasonably broadly, but also as he/she sees fit – even if this interpretation is based on impermissible hindsight reasoning and does not comport with the common meaning of a word. Clearly, ‘filler cell’ should not be allowed to define the meaning of “empty information cells”. Using the Examiner’s own words, he/she has applied a ‘special’ meaning to ‘empty information cells’ that is neither supported by the specification nor consistent with any provisions of the specification.

Yet further, in the absence of a specific definition for “empty cell” in the originally filed specification of the present application, the proper strategy should be for the Examiner to look at a dictionary definition of the word “empty”, and not look to a separate reference that could have a totally different definition of the term ‘empty cells’ than what is intended in the present application. In this case, a generally accepted dictionary, Merriam Webster online, indicates that the word empty can mean containing nothing. Therefore, the term empty cells, as used in claim 1, for example, should broadly be considered to be a cell that contains nothing (e.g., no data).

Therefore, at least based on the foregoing as well the previously presented arguments, Applicants maintain that Feldman does not anticipate claim 1.

Applicants maintain that independent claim 4 is patentable at least based on reasons similar to those set forth above with respect to claim 1.

Applicants maintain that dependent claim 7 is patentable at least by virtue of its dependency from independent claim 1.

Further, Applicants maintain the previously submitted argument that simply because Feldman relates to a satellite environment does not necessarily mean that the specific features of claim 7 are satisfied. Accordingly, Applicants maintain that Feldman does not anticipate claim 7.

§103(a) Rejections (Feldman/Thiesfeld) - Claims 2, 3, 5, 6, 8, and 9

Applicants maintain that dependent claims 2, 3, 5, 6, 8, and 9 are patentable at least by virtue of their respective dependencies from independent claims 1 and 4. Thiesfeld does not make up for the deficiencies of Feldman.

Yet further, with respect to dependent claims 8 and 9, Applicants maintain the previously submitted argument that neither of the applied references, alone or in combination, discloses or suggests at least, “said empty information cells are related to a difference between a needed bit rate and a reserved bandwidth,” as recited in claims 8 and 9. *See pages 6-7 of August 3 Amendment.* The Examiner does not even respond to this previously submitted argument.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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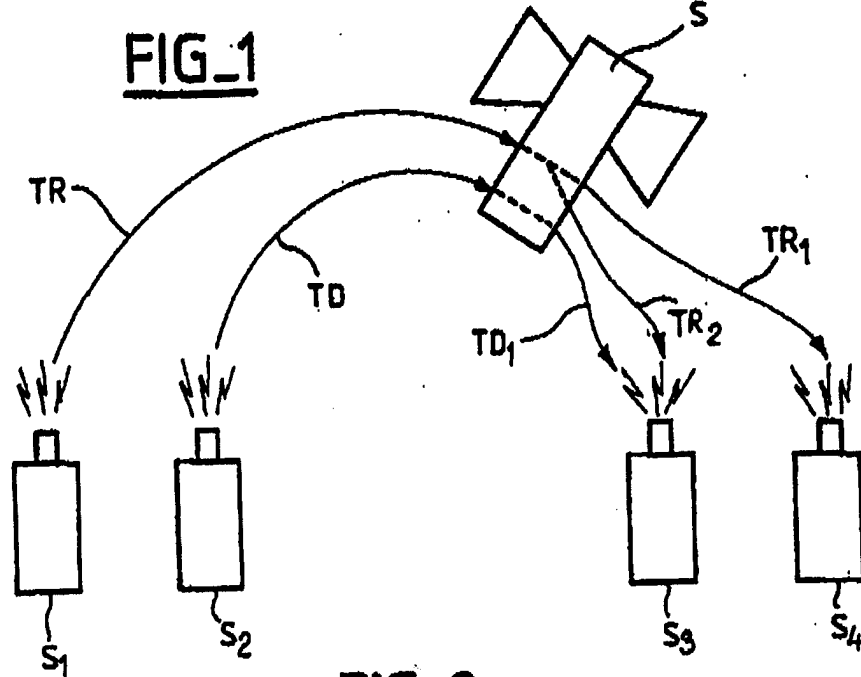
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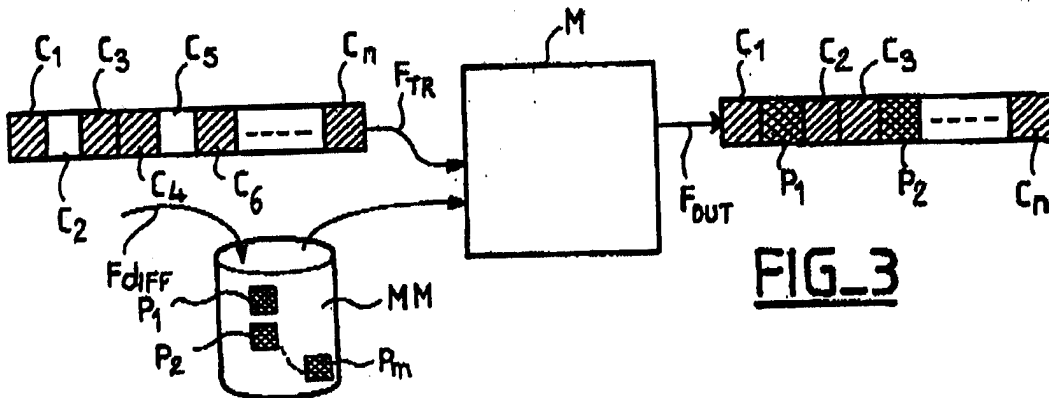
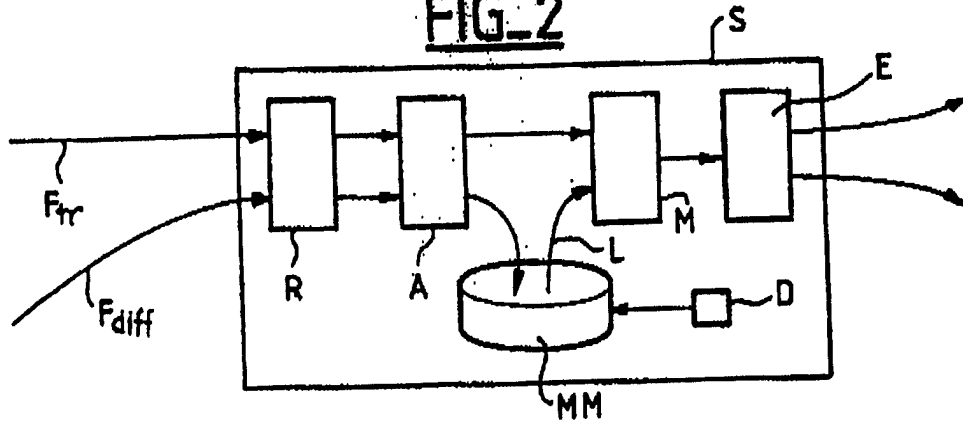
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RELATED
ART

FIG_1



FIG_2



FIG_3